

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MANUEL ALMODOVAR,

Petitioner,

-against-

UNITED STATES OF AMERICA,

Respondent.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 1-31-20

09 Civ. 8533 (LAP)

ORDER

LORETTA A. PRESKA, Senior United States District Judge:

In light of the facts set out in the Government's January 30, 2020 letter (dkt. no. 10, attached), it is hereby ordered that Mr. Almodovar shall file any successive § 2255 motion on or before April 1, 2020.

SO ORDERED.

Dated: New York, New York
January 31, 2020



LORETTA A. PRESKA
Senior United States District Judge

*United States Attorney
Southern District of New York*

*The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007*

January 30, 2020

BY ECF

The Honorable Loretta A. Preska
United States District Court
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

Re: Manuel Almodovar v. United States of America, 09 Civ. 8533 (LAP)

Dear Judge Preska:

The Government writes with respect to the January 28, 2020 order filed by the Court of Appeals for the Second Circuit, which granted Almodovar's motion for leave to file a successive § 2255 motion, and transferred the proceeding to this Court. On July 6, 2016, Almodovar filed a pro se motion seeking an order from the Second Circuit authorizing the district court to consider a successive petition § 2255 motion. The Government has learned from the Federal Bureau of Prisons website that Almodovar was released from prison on April 14, 2017. The Government also has learned from Customs and Border Patrol Task Force Officer Jared Eannucci that Almodovar was deported from the United States on May 16, 2017. Given these circumstances, the Government does not know whether Almodovar intends to pursue litigation in the above-referenced case. Accordingly, the Government respectfully requests that the Court issue an order that Almodovar must file any successive § 2255 motion in this matter on or before April 1, 2020. If Almodovar files such a motion, the Government will propose a briefing schedule for filing the Government's response and any reply by Almodovar. If Almodovar does not file such a motion on or before April 1, 2020, the Government respectfully requests that the Court order the Clerk of Court to mark this case as closed.

The Government does not know Almodovar's current address since he was released from prison and deported in 2017. As Almodovar proceeded as a pro se litigant in filing both his initial § 2255 motion before this Court in 2009 as well as in filing his motion for leave to file a successive

§ 2255 motion in the Second Circuit in 2016, the Government is serving Almodovar with this letter at the two last known federal correctional institutions of record in both cases.

Respectfully submitted,

GEOFFREY S. BERMAN
United States Attorney

By: /s/ Kristy J. Greenberg
Kristy J. Greenberg
Assistant United States Attorney
(212) 637-2469

cc: By First Class Mail, Return Receipt Requested

Manuel Almodovar, 92348-071
Federal Correctional Institution
D. Ray James
P. O. Box 2000
Folkston, GA 31537

Manuel Almodovar, 92348-071
FCI Elkton
P.O. Box 10
Lisbon, OH 44432